



**4910-13**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 73**

**Docket No. FAA-2011-0117; Airspace Docket No. 09-AGL-31**

**Proposed Establishment of Restricted Areas R-5402, R-5403A, R-5403B, R-5403C, R-5403D, R-5403E, and R-5403F; Devils Lake, ND**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish restricted area airspace within the Devils Lake Military Operations Area (MOA), overlying Camp Grafton Range, in the vicinity of Devils Lake, ND. The new restricted areas would permit realistic training in modern tactics to be conducted at Camp Grafton Range while ensuring the safe and efficient use of the National Airspace System (NAS) in the Devils Lake, ND, area. Unlike restricted areas which are designated under Title 14 Code of Federal Regulations (14 CFR) part 73, MOAs are not rulemaking airspace actions. However, since the proposed restricted areas overlap the Devils Lake East MOA, the FAA is including a description of the Devils Lake East MOA change in this NPRM. The MOA change described herein will also be published in the National Flight Data Digest (NFDD).

**DATES:** Comments must be received on or before [insert date 45 days from publication in the FEDERAL REGISTER].

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M-30, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-0001; telephone: (202) 366-9826. You must identify FAA Docket No. FAA-2011-0117 and Airspace Docket No. 09-AGL-31, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Colby Abbott, Airspace, Regulations and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2011-0117 and Airspace Docket No. 09-AGL-31) and be submitted in triplicate to the Docket Management System (see "ADDRESSES" section for address and phone number). You may also submit comments through the Internet at <http://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2011-0117 and Airspace Docket

No. 09-AGL-31.” The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### **Availability of NPRM's**

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at

[http://www.faa.gov/airports\\_airtraffic/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see “ADDRESSES” section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, Operations Support Group, Federal Aviation Administration, 2601 Meacham Blvd. Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

## **Background**

Resulting from the 2005 Base Realignment and Closure Commission decisions, Grand Forks AFB was selected for a mission change from its existing aerial refueling mission to an emerging unmanned aerial system (UAS) mission. To accommodate this mission change, the United States (U.S.) Air Force is establishing an operational MQ-1, Predator, squadron at Hector International Airport, ND, with eight Predator aircraft being located at Grand Forks AFB. The launch and recovery operations and maintenance support activities for these aircraft will be accomplished at Grand Forks AFB. Additionally, the U.S. Air Force is establishing a second Global Hawk Main Operating Base for RQ-4, Global Hawk, operations, with six to eight Global Hawk aircraft to be assigned at Grand Forks AFB as well.

The UAS aircraft programmed to arrive at Grand Forks AFB will have mission and training requirements that include employing Intelligence/Reconnaissance/Surveillance, Close Air Support, and Time Sensitive Targeting tactics. Predator laser training will be accomplished at Camp Grafton Range near Devils Lake, ND. Since the Predator onboard laser system is not eye-safe, its use during training must be contained within restricted area airspace. Restricted areas are regulatory airspace areas that are designated under 14 CFR part 73 rulemaking procedures to contain activities that may present a hazard to nonparticipating aircraft. No person may operate an aircraft within a restricted area without the advance permission of the using or controlling agency.

With the emerging UAS mission at Grand Forks AFB and associated laser training requirements at Camp Grafton Range, the existing R-5401 restricted area surrounding the range is inadequate to satisfy laser training requirements for realistic mission profiles above 5,000 feet mean sea level (MSL). In order to fully exploit the capabilities of today's UAS aircraft and

provide the essential training that replicates the conditions that are encountered during wartime deployments today, it is necessary to expand the restricted airspace around Camp Grafton Range. The U.S. Air Force has proposed the FAA establish restricted areas surrounding Camp Grafton Range and R-5401 to enable realistic UAS mission profiles above 5,000 feet MSL to contain the hazardous non-eye safe laser training.

The proposed restricted areas would be established within the existing Devils Lake East MOA and would also extend beyond the MOA's southern boundary approximately 10 NM at the furthest point. Additionally, the Devils Lake East and Devils Lake West MOAs and the existing air traffic control assigned airspaces associated with the MOAs would be retained to support integrated training activities; thus, allowing Predator crews to train for real world mission scenarios with other manned aircraft. To prevent confusion and conflict of having the proposed restricted areas and the existing MOA active in the same airspace at the same time, the Devils Lake East MOA would be amended to exclude R-5401 and the proposed restricted areas when they are active.

MOAs are nonregulatory airspace areas that are established administratively and published in the NFDD. MOAs are established to separate or segregate non-hazardous military flight activities from aircraft operating in accordance with instrument flight rules (IFR), and to advise pilots flying under visual flight rules (VFR) where these activities are conducted. IFR aircraft may be routed through an active MOA only when air traffic control can provide approved separation from the MOA activity. VFR pilots are not restricted from flying in an active MOA, but are advised to exercise caution while doing so. Normally, MOA proposals are not published in an NPRM, but are advertised for public comment through a nonrule circular distributed by an FAA Service Center office to aviation interests in the affected area. When a

nonrulemaking action is an integral part of a rulemaking action, FAA procedures allow for the nonrulemaking proposal to be included in the NPRM. Since R-5401 and the proposed restricted areas R-5402, R-5403A, R-5403B, R-5403C, R-5403D, R-5403E, and R-5403F all infringe on the Devils Lake East MOA, the FAA is including a description of the Devils Lake East MOA amendment in this NPRM. Comments on the proposed MOA change may also be submitted as indicated above in the “Comments Invited” section of this NPRM.

### **Proposed MOA Change**

The FAA is proposing to amend the Devils Lake East MOA legal description to exclude that airspace within the proposed restricted areas R-5402, R-5403A, R-5403B, R-5403C, R-5403D, R-5403E, and R-5403F, which overlaps airspace within the MOA, when any of the restricted areas are active, respectively. The intent would be to exclude the restricted areas individually only as they are activated. Additionally, the Devils Lake East MOA amendment will retain and move the R-5401 exclusionary language contained in the altitude information of the legal description to the boundaries information. Except for moving the R-5401 exclusion information, the altitude and time of use descriptions for Devils Lake East MOA will remain unchanged. This proposed amendment will prevent airspace conflict with the overlapping existing and proposed restricted areas.

### **Devils Lake East MOA, ND [Amended]**

By removing the current boundaries and altitudes descriptions and substituting the following:

**Boundaries.** Beginning at lat. 47°50'00"N., long. 99°09'01"W.;  
to lat. 47°47'00"N., long. 99°00'01"W.;  
to lat. 47°50'00"N., long. 98°17'01"W.;  
to lat. 47°35'00"N., long. 98°07'01"W.;  
to lat. 47°19'00"N., long. 97°44'01"W.;  
at lat. 47°07'00"N., long. 98°12'01"W.;

to lat. 47°14'00"N., long. 98°22'01"W.;  
 to lat. 47°25'00"N., long. 99°15'01"W.;  
 to lat. 47°25'00"N., long. 99°41'01"W.;  
 to the point of beginning, excluding R-5401,  
 R-5402, R-5403A, R-5403B, R-5403C,  
 R-5403D, R-5403E, and R-5403F  
 when active.

**Altitudes.** 3,500 feet MSL to but not including FL 180.

### **Restricted Area Proposal**

The FAA is proposing to amend 14 CFR part 73 to expand the vertical and lateral limits of restricted area airspace over Camp Grafton Range to contain hazardous non-eye safe laser training operations by an emerging UAS mission at Grand Forks Air Force Base (AFB), transforming the range into a viable non-eye safe laser training location. Camp Grafton Range currently is surrounded by R-5401; however, the lateral boundaries and altitude are insufficient to contain the laser training mission profiles and tactics flown today in combat operations. This proposal would supplement R-5401 and establish additional restricted areas, R-5402, R-5403A, R-5403B, R-5403C, R-5403D, R-5403E, and R-5403F, to provide the vertical and lateral tactical maneuver airspace needed for UAS target acquisition prior to attack, and to contain the non-eye safe laser during laser target designation training operations from medium to high altitudes.

The proposed restricted area R-5402 boundary, described in the regulatory text, would be defined by a 7 nautical mile (NM) radius around the center of R-5401, with the northern boundary adjusted to lie along the 47°45'00"N latitude. The proposed restricted area altitude would be upward from 500 feet above ground level to, but not including 10,000 feet MSL. This new restricted area would provide a pathway for the non-eye safe laser beam to transit from the

proposed R-5403A, R-5403B, or R-5403C (described below) through the existing R-5401 and onto Camp Grafton Range.

The proposed restricted areas R-5403A, R-5403B, and R-5403C would share the same lateral boundaries, overlying R-5402 and layered in ascending order. The northern boundary of these R-5403 areas, as described in the regulatory text, would share the same northern boundary as R-5402, the 47°45'00"N latitude. The western boundary would lie approximately 14 NM west of R-5402 along the 99°15'00"W longitude and the eastern boundary would lie approximately 7 NM east of R-5402 along the 98°15'00"W longitude. Finally, the southern boundary would be established to remain north of the protected airspace for V-55. The proposed restricted area altitudes, in ascending order, would be defined upward from 8,000 feet MSL to, but not including 10,000 feet MSL for R-5403A; upward from 10,000 feet MSL to, but not including 14,000 feet MSL for R-5403B; and upward from 14,000 feet MSL to, but not including Flight Level (FL) 180 for R-5403C. The additional lateral and vertical limits provided by these proposed restricted areas, in conjunction with R-5401, R-5402, R-5403D, R-5403E, R-5403F, and Camp Grafton Range, would establish the maneuvering airspace needed for UAS aircraft to practice the tactical maneuvering and standoff target acquisition training requirements necessary for the combat tactics and mission profiles flown today and to contain the hazardous non-eye safe laser, when employed, completely within restricted airspace.

The proposed restricted areas R-5403D, R-5403E, and R-5403F would also share the same lateral boundaries, adjacent to and southeast of R-5403A, R-5403B, and R-5403C, and also layered in ascending order. The northern boundary of these R-5403 areas, as described in the regulatory text, would share the same southern boundary of R-5403A, R-5403B, and R-5403C. The western boundary point would reach to the 99°15'00"W longitude and the eastern boundary



would lie along the 98°15'00"W longitude. Finally, the southern boundary would be established to lie along the 47°30'00"N latitude. The proposed restricted area altitudes, in ascending order, would be defined upward from 10,000 feet MSL to, but not including 12,000 feet MSL for R-5403D; upward from 12,000 feet MSL to, but not including 14,000 feet MSL for R-5403E; and upward from 14,000 feet MSL to, but not including Flight Level (FL) 180 for R-5403F. The additional lateral and vertical limits provided by these proposed restricted areas, in conjunction with R-5401, R-5402, R-5403A, R-5403B, R-5403C, and Camp Grafton Range, would establish the maneuvering airspace, standoff target acquisition, and hazardous non-eye safe laser employment training completely within restricted airspace, as noted above.

Restricted areas R-5402, R-5403A, R-5403B, R-5403C, R-5403D, R-5403E, and R-5403F will all be designated as "joint-use" airspace. This means that, during periods when any of the restricted airspace areas are not needed by the using agency for its designated purposes, the airspace will be returned to the controlling agency for access by other NAS users. The Minneapolis Air Route Traffic Control Center is the controlling agency for the proposed restricted areas.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish restricted airspace at Camp Grafton Range near Devils Lake, ND, to enhance safety and accommodate essential military training.

### **Environmental Review**

This proposal will be subjected to an environmental analysis in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," prior to any FAA final regulatory action.

### **List of Subjects in 14 CFR Part 73**

Airspace, Prohibited Areas, Restricted Areas.

## The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

### PART 73 - SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### § 73.54 (Amended)

2. §73.54 is amended as follows:

\* \* \* \* \*

#### R-5402 Devils Lake, ND [New]

**Boundaries.** Beginning at lat. 47°45'00"N., long. 98°47'19"W.; to lat. 47°45'00"N., long. 98°31'25"W.; then clockwise on a 7 NM arc centered on lat. 47°40'31"N., long. 98°39'22"W.; to the point of beginning, excluding the airspace within R-5401 when active, and R-5403A when active.

**Designated altitudes.** 500 feet AGL to, but not including, 10,000 feet MSL.

**Time of designation.** 0700-2200 daily, by NOTAM 4 hours in advance; other times by NOTAM.

**Controlling agency.** FAA, Minneapolis ARTCC.

**Using agency.** U.S. Air Force, 119<sup>th</sup> Operations Support Squadron, Hector International Airport, Fargo, ND.

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**R-5403A Devils Lake, ND [New]**

**Boundaries.** Beginning at lat. 47°45'00"N., long. 99°15'00"W.;  
to lat. 47°45'00"N., long. 98°15'00"W.;  
to lat. 47°35'39"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 99°15'00"W.;  
to the point of beginning.

**Designated altitudes.** 8,000 feet MSL to, but not including, 10,000 feet MSL.

**Time of designation.** 0700-2200 daily, by NOTAM 4 hours in advance; other times by NOTAM.

**Controlling agency.** FAA, Minneapolis ARTCC.

**Using agency.** U.S. Air Force, 119<sup>th</sup> Operations Support Squadron, Hector International Airport, Fargo, ND.

**R-5403B Devils Lake, ND [New]**

**Boundaries.** Beginning at lat. 47°45'00"N., long. 99°15'00"W.;  
to lat. 47°45'00"N., long. 98°15'00"W.;  
to lat. 47°35'39"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 99°15'00"W.;  
to the point of beginning.

**Designated altitudes.** 10,000 feet MSL to, but not including, 14,000 feet MSL.

**Time of designation.** 0700-2200 daily, by NOTAM 4 hours in advance; other times by NOTAM.

**Controlling agency.** FAA, Minneapolis ARTCC.

**Using agency.** U.S. Air Force, 119<sup>th</sup> Operations Support Squadron, Hector International Airport, Fargo, ND.

**R-5403C Devils Lake, ND [New]**

**Boundaries.** Beginning at lat. 47°45'00"N., long. 99°15'00"W.;  
to lat. 47°45'00"N., long. 98°15'00"W.;  
to lat. 47°35'39"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 99°15'00"W.;  
to the point of beginning.

**Designated altitudes.** 14,000 feet MSL to, but not including, FL 180.

**Time of designation.** 0700-2200 daily, by NOTAM 4 hours in advance; other times by NOTAM.

**Controlling agency.** FAA, Minneapolis ARTCC.

**Using agency.** U.S. Air Force, 119<sup>th</sup> Operations Support Squadron, Hector International Airport, Fargo, ND.

**R-5403D Devils Lake, ND [New]**

**Boundaries.** Beginning at lat. 47°35'39"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 99°15'00"W.;  
to the point of beginning.

**Designated Altitudes.** 10,000 feet MSL to, but not including, 12,000 feet MSL.

**Time of designation.** 0700-2200 daily, by NOTAM 4 hours in advance; other times by NOTAM.

**Controlling agency.** FAA, Minneapolis ARTCC.

**Using agency.** U.S. Air Force, 119<sup>th</sup> Operations Support Squadron, Hector International Airport, Fargo, ND.

#### **R-5403E Devils Lake, ND [New]**

**Boundaries.** Beginning at lat. 47°35'39"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 99°15'00"W.;  
to the point of beginning.

**Designated Altitudes.** 12,000 feet MSL to, but not including, 14,000 feet MSL.

**Time of designation.** 0700-2200 daily, by NOTAM 4 hours in advance; other times by NOTAM.

**Controlling agency.** FAA, Minneapolis ARTCC.

**Using agency.** U.S. Air Force, 119<sup>th</sup> Operations Support Squadron, Hector International Airport, Fargo, ND.

#### **R-5403F Devils Lake, ND [New]**

**Boundaries.** Beginning at lat. 47°35'39"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 98°15'00"W.;  
to lat. 47°15'00"N., long. 99°15'00"W.;  
to the point of beginning.

**Designated Altitudes.** 14,000 feet MSL to, but not including, FL 180.

**Time of designation.** 0700-2200 daily, by NOTAM 4 hours in advance; other times by NOTAM.

**Controlling agency.** FAA, Minneapolis ARTCC.

**Using agency.** U.S. Air Force, 119<sup>th</sup> Operations Support Squadron, Hector International Airport, Fargo, ND.

Issued in Washington, DC, on November 17, 2011.

Gary A. Norek

Acting Manager, Airspace, Regulations and ATC Procedures Group

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